

January 17, 2023

Ann Misback
Secretary
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Guidelines for Evaluating Account and Services Requests (Docket No. OP-1788)

Dear Ms. Misback:

On behalf of America's credit unions, I am writing in response to Board of Governors of the Federal Reserve System's (Board) proposal to publish a periodic list of depository institutions with access to Reserve Bank accounts and/or financial services (RFC)¹. The Credit Union National Association (CUNA) represents America's credit unions and their more than 130 million members. CUNA strongly supports the Board's proposed effort to increase the transparency of the master account access process, and we ask the Board to include several additional data points in the report to maximize this transparency.

The newly implemented guidelines² for determining eligibility for access to Reserve Bank accounts and services has yet to be proven and invites financial service providers other than credit unions and banks to seek access. Some of these new entrants will employ novel business models that rely on new technologies that may pose unique risks to the payments system. It is also likely that banks and credit unions will adopt new technologies making it important that the Board's Guidelines decouple novel business models from new products and address the risk for each individually.

The Board's proposal cannot be properly considered without acknowledging the impact of § 5708 of the 2023 National Defense Authorization Act (NDAA)³. This provision requires the Board, within 180 days, to create and maintain a database of all entities that have been granted access to master accounts and services along with the date access was provided. Additionally, the database must include the date an application was submitted along with the date access was approved, rejected, or withdrawn.

Alternatively, the RFC proposes a quarterly report with two lists: (1) federally-insured depository institutions with access to accounts and services, and (2) a list of non-federally-insured depository

¹ 87 Fed. Reg. 68691 (November 16, 2022).

² 87 Fed. Reg. 51099 (August 19, 2022).

³ Fiscal 2023 National Defense Authorization Act, H.R. 7776, 117th Cong. § 5708 (2022).

institutions with access to accounts and services. Separately, the report would note the institutions that have received access to accounts and services since the last report as well as a list of those institutions whose access has been terminated in the preceding quarter.

As the Board incorporates the requirements of the NDAA into a proposed rule, we would encourage the adoption of these additional recommendations:

- (1) The Reserve Banks should publish the report of newly granted or terminated accounts monthly rather than quarterly.
- (2) In addition to the institution name and the Reserve Bank district, the report should include the institution's charter type, the city and state where the institution is located, the tier classification from the access guidelines, and the institution's prudential regulator.
- (3) New applications for access to Reserve accounts and services should be subject to a 30-day notice and comment period.

Questions for Comment

1. Would the two data elements in the proposed Public Disclosure section appropriately balance providing public transparency with protecting information that institutions consider to be confidential?

The publication of the two data elements: the institution's name and the Reserve Bank district in which the institution is located, presents no confidentiality concerns. These elements are necessary and critical to an effective list or database.

2. Would the proposed publication schedule (quarterly cadence) appropriately balance providing timely transparency with reducing potential reputational harm to institutions that no longer have access to accounts and services? Would a less frequent cadence, such as semi-annual publication, strike that balance more effectively?

The Reserve Banks should publish the system-wide report monthly rather than quarterly. Similarly, the Board ought to update the database directed by the NDAA at least monthly. This publication schedule is necessary to conduct an accurate risk assessment of the system in light of the increased access to master accounts and services by unsupervised institutions.

Implementation of the new guidelines necessitates maximum transparency by the Federal Reserve System to confirm the guidelines are being applied consistently across the system. As with any guidelines, rules, or regulations, consistent and proper application is nearly as important as the actual requirements. Clearly, the decision to allow access to Reserve Bank accounts and services does not rest with the Board but with the Reserve Banks. Our concern is that the Reserve Banks could apply the Guidelines inconsistently from entity to entity, which could lead to different outcomes for applications and possibly differences in how entities are supervised for ongoing compliance. Providing frequent lists and database updates adds another level of clarity for the system.

3. Are there additional data elements for each institution with access to accounts and services that the Federal Reserve should consider publishing to provide greater transparency to the public (such as the date on which access was provided, to extent known, or removed, location of the institution, etc.)? Are there additional data elements that the Federal Reserve should avoid publishing to prevent potential harm to these depository institutions?

The Board should publish the date on which access was provided and when access is terminated—to the extent known. Additionally, publication should include: the city and state where the institution is located, its charter type, the tier classification from the access guidelines, and the institution's primary regulator responsible for oversight and supervision of the institution. These data points will provide a comprehensive picture of the institutions and applications and allow for an accurate risk assessment as provided above.

4. Are there additional actions that the Board or Reserve Banks should take to provide transparency with respect to accounts and services? For example, should the Board establish a requirement for the Reserve Banks to publish a list of institutions that have requested an account or access to services (including the date on which the request was submitted, rejected, or withdrawn, etc.)?

In addition to the actions provided in the RFC and in the NDAA, the Board should provide a 30-day notice and comment period for each application to receive access to accounts and services. This period will allow the public to review the application and provide input to the Board and its Reserve Banks regarding the risk of allowing the applying institution access to the system and the potential repercussions on individuals, financial institutions, and the payments system.

This notice and comment period should be brief so as to not impede the swift and efficient evaluation of applications, but should allow for accessible and meaningful public input on the safety and security of the payments system and all of its participants. This proposed period will increase the transparency of the account and services access process and contribute a necessary check on the potential concerns regarding implementation of the access guidelines described in the response to question 2.

5. Should categories of private sector institutions with access to accounts and services that are not covered by the Guidelines, such as designated financial market utilities, be scoped into the proposed Public Disclosure section?

Yes. The Public Disclosure section should include a comprehensive list of all private and public sector institutions with access to accounts and services. The database and the periodic list should provide a complete picture of Federal Reserve System access to ensure the greatest transparency and to further the aims described throughout the letter.

We thank you for your consideration of our comments and recommendations to increase the transparency of the Federal Reserve System. If you have questions or require additional information related to our feedback, please do not hesitate to contact me at (202) 577-3463 or mrose@cuna.coop.

Sincerely,

A handwritten signature in black ink, appearing to read "Madison Rose". The signature is fluid and cursive, with the first name "Madison" written in a larger, more prominent script than the last name "Rose".

Madison Rose
Director of Advocacy & Counsel for Payments and Technology